

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LARRY BUDNICK, an individual,

Plaintiff,

vs.

YOUR MANAGEMENT, LLC, *et al.*,

Defendants.

Case No. 2:08-cv-00590-HDM-GWF

**FINDINGS &**  
**RECOMMENDATIONS**

On April 6, 2010, the Court ordered that Plaintiff Larry Budnick and Defendant Dr. Kelly White file their proposed joint pretrial order on or before April 15, 2010. (#105). Two weeks later, the Court again entered an order requiring the parties to file a proposed joint pretrial order no later than April 29, 2010. (#106). Plaintiff and Defendant failed to comply and, on May 11, 2010, the Court filed an Order for the parties to show cause no later than May 20, 2010, why sanctions should not be imposed for the failure to file the required proposed joint pretrial order and failure to comply with this court's prior orders. (#107). Additionally, the Court notified the Plaintiff that failure to timely respond to this Order to Show Cause would result in the imposition of sanctions up to and including a recommendation to the District Judge that Plaintiff's claims against Defendant White be dismissed for violation of the Court's order. (*Id.*) To date, Plaintiff has failed to respond to the Court's order to show cause and the time allowed has now expired. Accordingly,

**IT IS HEREBY RECOMMENDED** that Plaintiff's claims against Defendant Kelly White be **dismissed with prejudice** based on Plaintiff's failure to file a pretrial order.

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**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 26th day of May, 2010.

  
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GEORGE FOLEY, JR.  
United States Magistrate Judge